

§ 11.16

(ii) Administrative costs and expenses necessary for, and incidental to, the assessment, assessment planning, and restoration, rehabilitation, replacement, and/or acquisition of equivalent resources planning, and any restoration, rehabilitation, replacement, and/or acquisition of equivalent resources undertaken; and

(4) Interest on the amounts recoverable as set forth in section 107(a) of CERCLA. The rate of interest on the outstanding amount of the claim shall be the same rate as is specified for interest on investments of the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954. Such interest shall accrue from the later of: The date payment of a specified amount is demanded in writing, or the date of the expenditure concerned;

(b) The determination of the damage amount shall consider any applicable limitations provided for in section 107(c) of CERCLA.

(c) Where an assessment determines that there is, in fact, no injury, as defined in § 11.62 of this part, the natural resource trustee may not recover assessment costs.

(d) There shall be no double recovery under this rule for damages or for assessment costs, that is, damages or assessment costs may only be recovered once, for the same discharge or release and natural resource, as set forth in section 107(f)(1) of CERCLA.

(e) Actions for damages and assessment costs shall comply with the statute of limitations set forth in section 113(g), or, where applicable, section 126(d) of CERCLA.

[51 FR 27725, Aug. 1, 1986, as amended at 52 FR 9095, Mar. 20, 1987; 53 FR 5172, Feb. 22, 1988; 59 FR 14281, Mar. 25, 1994; 61 FR 20609, May 7, 1996]

§ 11.16 [Reserved]

§ 11.17 Compliance with applicable laws and standards.

(a) *Worker health and safety.* All worker health and safety considerations specified in the NCP shall be observed, except that requirements applying to response actions shall be taken to apply to the assessment process.

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(b) *Resource protection.* Before taking any actions under this part, particularly before taking samples or making determinations of restoration or replacement, compliance is required with any applicable statutory consultation or review requirements, such as the Endangered Species Act; the Migratory Bird Treaty Act; the Marine Protection, Research, and Sanctuaries Act; and the Marine Mammal Protection Act, that may govern the taking of samples or in other ways restrict alternative management actions.

[51 FR 27725, Aug. 1, 1986, as amended at 53 FR 5172, Feb. 22, 1988]

§ 11.18 Incorporation by reference.

(a) The following publications or portions of publications are incorporated by reference:

(1) Part II only (Fish-Kill Counting Guidelines) of “Monetary Values of Freshwater Fish and Fish-Kill Guidelines,” American Fisheries Society Special Publication Number 13, 1982; available for purchase from the American Fisheries Society, 5410 Grosvenor Lane, Bethesda, MD 20814, ph: (301) 897-8616. Reference is made to this publication in §§ 11.62(f)(4)(i)(B) and 11.71(l)(5)(iii)(A) of this part.

(2) Appendix 1 (Travel Cost Method), Appendix 2 (Contingent Valuation (Survey) Methods), and Appendix 3 (Unit Day Value Method) only of Section VIII of “National Economic Development (NED) Benefit Evaluation Procedures” (Procedures), which is Chapter II of *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies*, U.S. Department of the Interior, Water Resources Council, Washington, DC, 1984, DOI/WRC/-84/01; available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; PB No. 84-199-405; ph: (703) 487-4650. Reference is made to this publication in § 11.83(a)(3) of this part.

(3) “Uniform Appraisal Standards for Federal Land Acquisition” (Uniform Appraisal Standards), Interagency Land Acquisition Conference, Washington, DC, 1973; available for purchase